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12  
13 UNITED STATES DISTRICT COURT  
14 NORTHERN DISTRICT OF CALIFORNIA  
15

16 MIGUEL A. CRUZ, and JOHN D. HANSEN,  
17 individually and on behalf of all others  
similarly situated,

18 Plaintiffs,

19 v.

20 DOLLAR TREE STORES, INC.,

Defendant.

CASE NO. C 07 2050 SC

21 ROBERT RUNNINGS individually, and on  
22 behalf of all others similarly situated,

23 Plaintiff,

24 v.

25 DOLLAR TREE STORES, INC.,

Defendant.

CASE NO. C 07 04012 SC

**DECLARATION OF CARLOS  
HERNANDEZ IN SUPPORT OF  
DEFENDANT'S MOTION FOR  
SUMMARY JUDGMENT**

JUDGE: Hon. Samuel Conti  
COMPLAINTS FILED: April 11, 2007  
July 6, 2007  
TRIAL DATES: No dates set.

1 I, Carlos Hernandez, do hereby declare:

2       1. I am employed by Dollar Tree Stores, Inc. ("Dollar Tree") in the  
 3 position of Regional Training Manager, a position I have held since about July 2005. I  
 4 started with Dollar Tree as a Manager in Training in December 2001, became a Store  
 5 Manager in January 2002, was promoted to a District Manager position in about August  
 6 2003, and was again promoted to a Regional Training Manager position in about July  
 7 2005. Prior to joining Dollar Tree, I spent some twenty-four years working for retail  
 8 businesses, starting with Albertson's (the grocery chain) where my last position was as a  
 9 District Manager. I also worked as a Training Manager for Office Max between my  
 10 Albertson's employment and my start with Dollar Tree.

11       2. In my first position with Dollar Tree, I performed store manager  
 12 duties as a Store Manager in two different Dollar Tree stores, one located in Pittsburg,  
 13 California (Store 1556) and the second in Sacramento, California (Store 1229). As a  
 14 District Manager, I was responsible for overseeing the operations of several stores in my  
 15 District, located in the Sacramento, California area. The Store Managers of each store  
 16 in my District reported to me. I, in turn, reported to a Regional Director who had  
 17 responsibility for several districts. In my current position, I am responsible for  
 18 implementing training programs at both the Store Manager and District Manager level. I  
 19 have provided training to Dollar Tree Store Managers throughout the country, and  
 20 regularly visit California stores both on my own, and together with Dollar Tree managers,  
 21 such as the Regional Director, the Zone Vice President and District Managers. My  
 22 region is Region 9, which consists of some 98 stores in the Central Valley of California  
 23 and in Nevada. The stores managed by Plaintiffs Cruz, Hansen and Runnings were  
 24 formerly part of Region 9 (now transferred to Region 23). From about August 2005 to  
 25 February 2007, the stores in which the Plaintiffs worked were in my Region. Because of  
 26 the duties I have here described (performing the job, supervising the job, and providing  
 27 training for the job), I have personal knowledge of the duties performed by Dollar Tree

28

1 Store Managers in California. I submit this declaration to describe the responsibilities of  
 2 California Store Managers.

3           3. Since I have been a Regional Training Manager for Dollar Tree in  
 4 California, I have observed that Dollar Tree has placed increasing emphasis on training  
 5 Store Managers to manage the store, as opposed to performing hourly tasks that do not  
 6 have any management components. This emphasis has substantially increased since  
 7 the fall of 2005. There are overlaps in functions; for example, when a Store Manager is  
 8 training a stocker by working with that employee. Dollar Tree does not want its Store  
 9 Managers spending a majority of their time in non-management work; the basic function  
 10 of a Store Manager is to run the store, which means, among other tasks, planning sales,  
 11 ordering goods, merchandising goods, controlling inventory, accounting for receipts, and  
 12 supervising the store personnel. Each Store Manager is responsible for hiring,  
 13 evaluation, training, and discipline of hourly associates. In the case of Assistant Store  
 14 Managers, the District Manager often becomes involved in the hiring process. We also  
 15 ask Store Managers to speak with Human Resources personnel about a termination  
 16 decision, but the Store Manager has full authority to initiate a termination. The Store  
 17 Manager is responsible for scheduling employees, taking into account the business of  
 18 the store, the time of freight deliveries and the number of employees working in the  
 19 store. The Store Manager and the Assistant Store Managers are the management team  
 20 at the store. The Store Manager is the highest level of management at the Store. The  
 21 Store Manager is essentially responsible for operating a retail location, including  
 22 overseeing the delivery of goods, the merchandising of the goods and the sales function.  
 23 Many stores in California have annual sales of \$1.5 M to \$4 M. The number of Assistant  
 24 Store Managers in each store in my Region ranges from three to four. The number of  
 25 hourly associates (who perform cashier, stocking, and store recovery duties, and who  
 26 generally work on a part time basis) ranges from twelve to twenty employees (and  
 27 increases during the Christmas season). The variety of food products and goods sold by  
 28 any Dollar Tree store will vary depending upon whether the store sells liquor or frozen

1 food items. Stores generally average at any given time between 4500 and 5000 SKU's  
 2 (each SKU being a separate kind of good for sale). This number varies due to the time  
 3 of the year and store size.

4       4. Dollar Tree stores are usually classified by square footage (both  
 5 gross and that available to the sales floor) and store layout as well as store location.  
 6 Stores are, for example, referred to as mall or stand-alone stores to designate where  
 7 they are located.

8                   Dollar Tree has the following descriptions for store classifications:

9                   SO (Small) applicable to stores of less than 4,700 retail square feet;

10                  LO (Large) applicable to 4,700 to 7,899 retail square feet;

11                  XO (Super) applicable to 7,900 to 12,579 retail square feet;

12                  RT (Race Track) applicable to stores of greater than 12,580 square feet.

13                  The store classification affects many aspects of managing a store. It affects what goods  
 14 the Store Manager may order, the merchandising of the store, the number of personnel  
 15 to be supervised, and the manner in which tasks in a store are performed. The sales  
 16 volume of the store, regardless of classification, has a similar effect, as the number of  
 17 employees, the size and number of orders, merchandising work and other store tasks  
 18 vary depending upon the sales level.

19       5. The work of a Store Manager changes depending upon the location,  
 20 volume, configuration and personnel in a store. Every store has particularized  
 21 circumstances, ranging from the type of clientele, to the location of the store, to the type  
 22 of personnel available for hire, to the most popular goods, to the comparable sizes of the  
 23 selling area and freight storage areas. The type of clientele affects the amount of time  
 24 devoted to recovery (the work necessary to pick up a store) and to shrink prevention (the  
 25 work necessary for loss and damage control). The number of customers also affects  
 26 recovery efforts. Generally, the higher the volume, the more time that is required for  
 27 recovery. The larger a store, the more allocations the store will have, and the more  
 28 ordering decisions a Manager will need to make. A Store Manager with a limited storage

1 area has different considerations in scheduling stocking crews and in getting  
 2 merchandise to the shelves than does a Store Manager with a larger back room. The  
 3 number of end caps (the display at the end of each store row which should attractively  
 4 market seasonal or other top selling goods) affects how much merchandising work a  
 5 Store Manager must perform or oversee. Some stores have extended front windows;  
 6 others have less window space. The front windows may be in different configurations  
 7 which will affect building window displays. There are many variables between stores; it  
 8 is the Store Manager's responsibility to understand the particular aspects of his/her store  
 9 and to manage the Company's directions in accordance with the needs of the particular  
 10 store. (I use his in the remainder of the declaration to refer to all Store Managers,  
 11 whether male or female.)

12       6. When I train Store Managers, I tell them that planning is the key to  
 13 success in operating the store. I say that 25% to 30% of their time must be devoted to  
 14 planning the staffing and operations of the store to maximize sales. When I make this  
 15 presentation, I define planning as hours spent in the office. Dollar Tree asks all Store  
 16 Managers to develop a Master List for a 6 to 10 day time period. This is a continuing list  
 17 so that if tasks do not get accomplished within that period, they are placed on the next  
 18 Master List for completion. The Master List then should be broken down to a daily task  
 19 list with the Store Manager having the Daily Planner handy throughout the day, for  
 20 example on a 3 by 5 index card. The Master List and the Daily Planner should be  
 21 updated every day. This allows the Store Manager to set goals, prioritize tasks, keep  
 22 track of what has been completed, and to organize delegation of the various tasks.  
 23 There are a number of store activities that fall within the planning function. For example,  
 24 the Store Manager needs to review sales trends and popular selling items and needs to  
 25 plan the placement of orders to be consistent with sales trends. The Store Manager  
 26 must schedule employees, decide upon how the merchandising will be displayed and  
 27 oversee all employees who are engaged in the various tasks required of a retail  
 28 operation. The Store Manager must supervise the placement of goods on shelves, the

1 sales function, the store's presentation, the way goods are merchandised, the collection  
 2 and deposit of cash, customer transactions, employee payroll and time recording, and all  
 3 personnel actions for store employees. If a Store Manager spends 25% to 30% of his  
 4 time in planning, and taking into consideration the remaining supervisory functions to be  
 5 performed, the Store Manager will spend more than 50% of his time on management  
 6 responsibilities.

7       7. When I was a District Manager, I trained Store Managers by  
 8 breaking down every hour of time that they work and asking them whether someone else  
 9 in the store could be performing certain functions. If that is the case, the Store Manager  
 10 should delegate so that the Store Manager is performing only the work that most other  
 11 employees cannot do. Only Store Managers have the primary function of planning and  
 12 assigning work. Only Store Managers can approve payroll. Store Managers are  
 13 ultimately responsible for ordering for the store, including ordering food products for  
 14 those stores which sell refrigerated food. Store Managers are responsible for reviewing  
 15 store employees' time records to make sure that all work is accurately recorded. Store  
 16 Managers are responsible for determining the number of employees needed, including  
 17 deciding upon additional hiring needs for the November/December holiday season.  
 18 Store Managers are ultimately responsible for accounting for all sales transactions in the  
 19 store, and should regularly review cashier statistics (contained on a form entitled a  
 20 Cashier Comparison Report) to insure that cashiers are productive and honest. Store  
 21 Managers should review such report to make sure that there is nothing unusual about  
 22 the employee's average transactions and that line item voids are both within Company  
 23 standards and not otherwise unusual. Store Managers should conduct regular till audits  
 24 (making sure that the amount of cash in the register corresponds to the transaction  
 25 accounts). Store Managers are responsible for controlling both internal and external  
 26 inventory loss in the store, including taking steps to prevent stealing and to record  
 27 accurately goods that cannot be sold or are being sold as part of a \$1.00 grab bag  
 28 (referred to as a mark up/mark down function). As part of the mark up/mark down

1 function, Store Managers must account for breakage, defective goods, expiration dates  
 2 and field markdowns (often merchandise placed in a grab bag) through the mark  
 3 up/mark down function. Store Managers are responsible for store presentation; the store  
 4 should be clean and recovered, with attractive displays of end caps, impulse items on  
 5 clip strips, gondola displays, and other forms of merchandise display. This function also  
 6 includes making sure that stockers keep the store's shelves full. The degree of  
 7 autonomy at the Store Manager level is an aspect of Dollar Tree's business that I have  
 8 always enjoyed.

9           8. One of the major discretionary responsibilities of a Store Manager is  
 10 in merchandising. The Company assists Store Managers by providing seasonal  
 11 planning guides indicating when merchandise for a particular holiday should be  
 12 displayed and providing guidelines for how the store windows and some end caps  
 13 should look. The Store Manager retains discretion in deciding how many facings (rows  
 14 of product) he stocks for any particular goods. The Store Manager can expand or shrink  
 15 the promotional areas provided by the sales planning guides based on what is selling in  
 16 his store. Even as to those displays that are provided in the planning guides, the Store  
 17 Manager must apply the guides to the lay-out and size of the particular store. The  
 18 seasonal planning guide is often no more specific than "set a Wow table with Valentine's  
 19 Day goods". (A Wow table is a table in the front of a store which displays seasonal or  
 20 other theme merchandise.) Attached hereto as **Exhibit 1** are true and correct copies of  
 21 photographs I took of the Valentine's Day displays in three separate stores in 2005. One  
 22 Store Manager decided to use balloons throughout the store and over aisles. A second  
 23 Store Manager decided upon a Wow table with cards, bears and picture frames. The  
 24 third picture in Exhibit 1 shows a shelving display for Valentine's Day in a different store.  
 25 Attached hereto as **Exhibit 2** is a true and correct copy of a Saint Patrick's Day Wow  
 26 table. Again, the instruction was a general one to develop a Wow table for that holiday.  
 27 Attached hereto as **Exhibit 3** is a true and correct copy of the Wow table for the  
 28 December holiday season for one store. Attached hereto as **Exhibits 4 and 5** are,

1 respectively, Wow tables meeting the general request to create a candle and picture  
 2 frame display (Exhibit 4) and to create a display for Coke (Exhibit 5). Exhibits 2 through  
 3 5 are photos I took in various stores in Region 9 in 2004 and 2005.

4           9.       Dollar Tree often creates baskets for various holidays. We provide  
 5 general direction (such as a basket of bath-related materials) but it is up to the Store  
 6 Manager to decide what goods will be assembled and how the baskets will be displayed.  
 7 There are end caps for which no specific instructions are given. For those end caps, for  
 8 gondolas and for other promotional displays, the Store Manager can be creative in  
 9 linking products, colors and selling themes. For example, a Store Manager might decide  
 10 to build a cooking display, bringing together color-coordinated items related to cooking.  
 11 A Store Manager might decide to have a pallet display (placing goods on a pallet in a  
 12 particular department). A Store Manager might decide to display goods through a cut  
 13 box (using the shipment box cut open to display product). Manager promotions are  
 14 totally up to the Store Manager to create, depending upon what goods the Manager has  
 15 ordered, what sells to the clientele of the store, and the Manager's creativity. The Store  
 16 Manager should coordinate the merchandising with his analysis of what is selling in the  
 17 store and with what he could sell at a higher margin. For example, when reviewing  
 18 goods to order, the Store Manager might notice that glassware has a high margin.  
 19 Therefore, he could build a promotional display of glassware, wine bags and textiles to  
 20 promote the glassware. The Store Manager would need to coordinate ordering of  
 21 glassware with the promotion.

22           10.      One of the Store Manager's functions is ordering. Orders are  
 23 placed once or twice a week, depending upon the store's sales volume. Attached hereto  
 24 as **Exhibit 6** are true and correct copy of excerpts from guidelines Dollar Tree provides  
 25 to Store Managers for ordering. Dollar Tree utilizes a Store Level Inventory Control  
 26 system ("SLIC") which allows the Store Manager to see different descriptions of the  
 27 SKU's ordered or available for order. Goods are ordered through one of three ways: (1)  
 28 An Advanced Store Replenishment System ("ASR") which automatically re-orders based

1 upon a tabulation of what is sold. (2) An allocation system which provides a specified  
 2 amount to each store. (3) Orders placed by the Store Manager based on his analysis of  
 3 sales trends and promotional opportunities. We ask Store Managers to order between  
 4 22 and 25% of the product in their store. The Store Manager has a number of tools to  
 5 assist in planning the ordering process in such a way that sales are maximized. Those  
 6 tools are part of a planning book which we ask Store Managers in California to compile,  
 7 update and use as part of the planning process. It is called a Playbook. Attached hereto  
 8 and incorporated herein by reference as **Exhibit 7** is the index of a Playbook. The index  
 9 identifies three documents that are primary ordering tools: (1) The ordering scorecard  
 10 which lists goods in a particular store by department, with each department then  
 11 analyzed on a weekly basis for the amount of sales, the percentage of that department's  
 12 sales to the overall store sales, the margin of sales, and the amount of such sales  
 13 ordered through ASR, the allocation system and by the manager. (2) A list of the Top  
 14 200 items sold in the store for a week's period which lists those items by the particular  
 15 good, rather than by the department, and also provides the SKU number, the number of  
 16 units of each good sold, and the retail amount of the sale of each item. (3) A Top 10 list  
 17 on a Company-wide basis of the products sold in a particular period. The Store Manager  
 18 must analyze all of that information for merchandising and ordering purposes. Every  
 19 third week is an "open to buy" week where the manager may order non-ASR goods in  
 20 larger quantities than what the ordering system generally allows. This permits smaller  
 21 stores to order higher quantities of goods that are strong sellers, and permits Store  
 22 Managers to develop promotional displays. Another planning tool which is part of the  
 23 Playbook is the weekly business summary which provides sales data, inventory data,  
 24 shrink data, SPEH data and mark up/mark down data by store and by district.

25           11. The Store Manager is ultimately responsible for the evaluation and  
 26 training of all store employees. The better the Store Manager is at hiring and training,  
 27 the more the Store Manager will be able to delegate to the Assistant Store Manager  
 28 level. Assistant Store Managers, even though they have supervisory responsibilities, are

1 paid on an hourly basis and treated as non-exempt employees. Only the Store Manager  
 2 at the store level is classified as an exempt employee. Many of the above functions can  
 3 be delegated to the Assistant Manager level; but it remains the Store Manager's  
 4 responsibility to insure that all store-related functions are effectively implemented.

5       12. Attached as **Exhibit 8** is a true and correct copy of Dollar Tree's  
 6 Compass policy providing guidelines to a Store Manager concerning the scheduling of  
 7 employees. It is the Store Manager's responsibility to finalize the schedule and then to  
 8 revise it as necessary during the week to meet increased sales requirements and  
 9 employees' time off needs. The system creates a preliminary schedule for cashier  
 10 hours, but the Store Manager must review the schedule and insert hours to cover both  
 11 gaps in coverage and anticipated peak sales hours. The Store Manager schedules all  
 12 stocking and Assistant Store Manager hours. Another duty of a Store Manager is to  
 13 protect Company assets. Dollar Tree provides the Store Manager with guidelines in how  
 14 to analyze cashier statistics, how to conduct till audits, how to conduct bag checks of  
 15 employees, how to monitor the transfer of goods into and out of a store, how to properly  
 16 record mark ups and mark downs, how to record and control cash and bank deposits,  
 17 and how to monitor those goods which are delivered directly to the store by a vendor  
 18 (called DSD). The Store Manager is responsible for the implementation and oversight of  
 19 all such asset protection functions.

20       13. As a general matter, each store is given a projected number of  
 21 employee hours based on anticipated sales (which are in turn based upon an analysis of  
 22 what the sales were for a similar period in the prior year). California has the highest  
 23 minimum allocation of any state in the country, with the goal of insuring compliance with  
 24 meal and break period and exempt requirements. It is up to the Store Manager (with  
 25 assistance from the District Manager) to constantly monitor his expected hours (called  
 26 SPEH or Sales Per Employee Hour) to make sure that he is scheduling additional hours  
 27 if sales increase, and cutting back if sales decrease, while having necessary crews to  
 28 stock and run the cash registers. When I was a District Manager, responsible for

1 overseeing 12 Store Managers, at stores located in the greater Sacramento area, I  
 2 reviewed my Store Managers' work to make sure that they were spending a majority of  
 3 their time performing management functions. If I thought that a manager was spending  
 4 too much time throwing freight, for example, I would work with the manager to improve  
 5 his/her planning, delegation and training skills so that others were doing that work. I  
 6 have consistently said the following to Store Managers (both when I was a District  
 7 Manager and in my present training role): You are a manager; you need to be primarily  
 8 involved in planning. We expect you to do functions that no one else can do.

9           14. Dollar Tree reminds its Store Managers of the need to spend more  
 10 than 50% of their time in performing management responsibilities by making available a  
 11 certification form (one format of which is attached as **Exhibit 9**) to record on a weekly  
 12 basis whether the employee is meeting that test. During my training of Store Managers,  
 13 I consistently tell Store Managers to tell the truth on the certifications so that the  
 14 Company will know where it needs to concentrate to make sure that the Store Manager  
 15 is spending a majority of time in management functions.

16           15. Dollar Tree has spent substantial resources in training for Store  
 17 Managers. We now have an MIT (Manager in Training) program for all persons hired  
 18 into a Store Manager position. There is an eight week training period, done at a store  
 19 location. However, on four different occasions during that eight week period, we provide  
 20 training at a variety of learning centers. (I often hold training sessions at a learning  
 21 center located at the Company distribution center in Stockton.) One such session  
 22 provides the history and philosophy of Dollar Tree; another provides our no-harassment  
 23 and non-discrimination training (called Respect in the Work Place); one session focuses  
 24 on interviewing and hiring; and one session focuses on skills such as planning,  
 25 communication, execution and follow-up (called Creating a Routine).

26           16. Attached as **Exhibit 10** are slides from a Power Point presentation  
 27 which I regularly make in the MIT training program. The slides in Exhibit 10 provide  
 28 training for the planning function. Attached as **Exhibit 11** are further slides from the

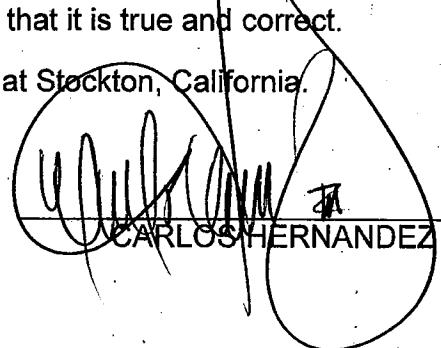
1 same Power Point presentation which provide training on how to delegate. These slides  
 2 are consistent with the advice and training we give all Store Managers, whether or not  
 3 they are in the MIT program. As can be seen from Exhibits 10 and 11, Dollar Tree  
 4 emphasizes the importance of the Store Manager's continuously engaging in planning.  
 5 We advise keeping a master list of tasks to be accomplished. We often advise Store  
 6 Managers to use 3 by 5 index cards so that they have ready access to their planning  
 7 lists. We discuss the importance of prioritization and delegation. The presentation  
 8 depicted in Exhibit 11 stresses the importance of delegation in a number of different  
 9 ways. There is a slide discussing excuses for not delegating, and why those excuses  
 10 are not valid. There are slides on selecting the right person to whom the task should be  
 11 delegated and for follow up by the manager. All of this training is to help insure that the  
 12 Store Manager does not perform non-management tasks himself. Attached as  
 13 **Exhibit 12** is a sample Master List which I use in training materials. Of all the tasks on  
 14 Exhibit 12, I would expect managers to perform only three themselves ("review ad  
 15 checklist with team"; "check May pull & hold list for compliance"; and "check items from  
 16 zero sales report"). I expect that the remaining tasks would be delegated and the  
 17 performance of the work supervised by the Store Manager. This is what I tell Store  
 18 Managers in training with this material.

17. Store Managers' salaries in Region 9 currently range from \$40,000  
 18 to \$63,654, with the median salary at \$48,500. In addition to their salary, Store  
 19 Managers receive incentive bonuses based exclusively on sales-related factors. Store  
 20 Managers are eligible to earn a bonus per period (approximately every 4-5 weeks) based  
 21 on an increase in sales, and more recently (effective period 9 in 2007) based on sales  
 22 increases including a margin component. Attached hereto as **Exhibits 13 and 14** are  
 23 descriptions of the Store Management Bonus Plan. The steps a Store Manager can  
 24 take to increase sales are: (1) Make sure the store is fully stocked with as much freight  
 25 as possible on the sales floor; (2) Pay careful attention to ordering both in terms of  
 26 assortment and quantity; (3) Make sure that every SKU available to the store is on the  
 27  
 28

1 sales floor; (4) Develop attractive merchandising displays; (5) Analyze whether the  
2 store's top selling items are on the front end caps; (6) Make sure that tie-ins of high  
3 margin goods have been placed near the best selling goods, again in a colorful and  
4 attractive display; and (7) Do everything possible to improve customer service, including  
5 having meetings with the staff to emphasize how customers should be treated.

6 I have read the attached declaration and do hereby declare, under penalty  
7 of perjury under the laws of the United States, that it is true and correct.

8 Executed on January 2, 2008 at Stockton, California.

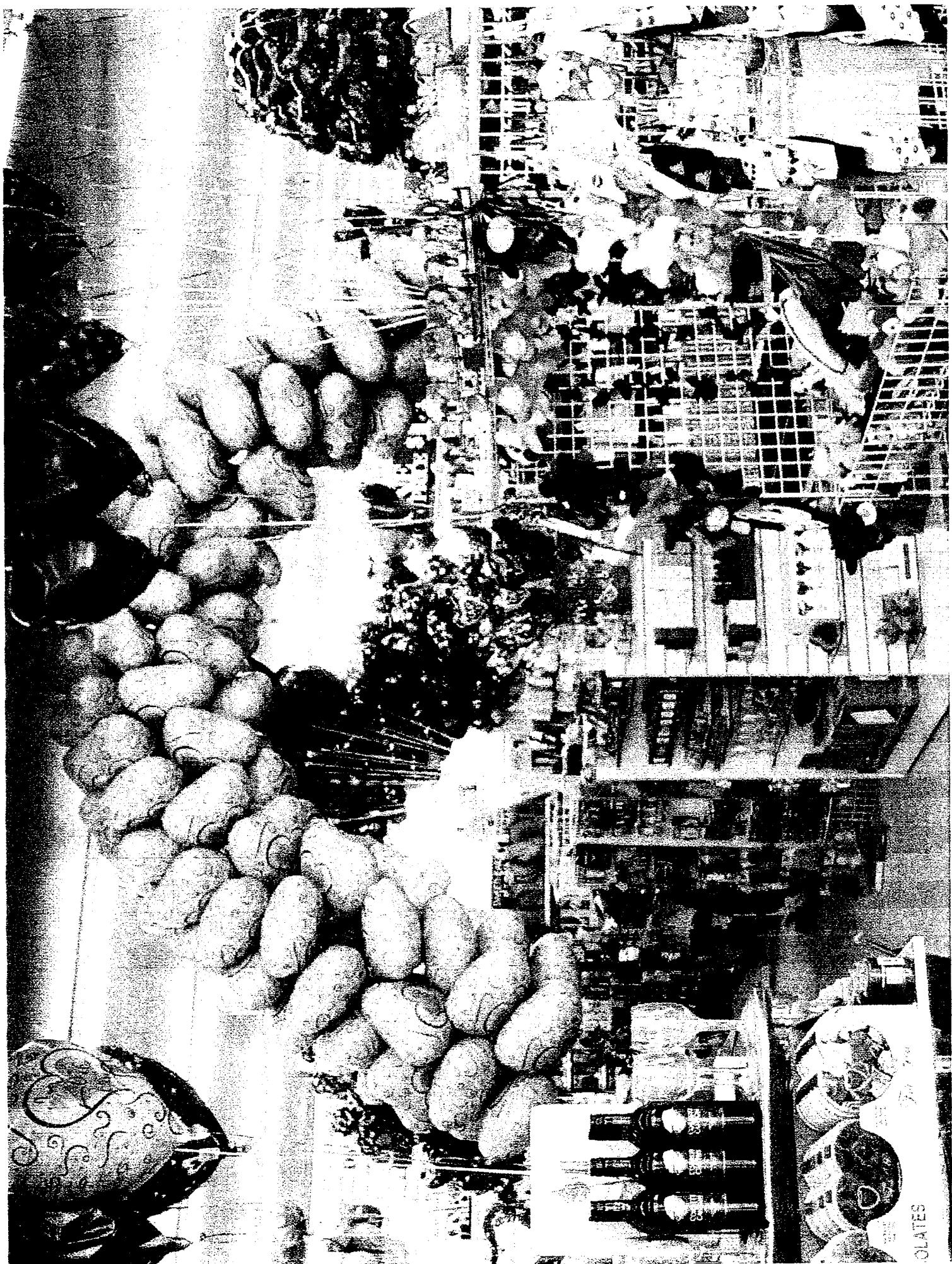


CARLOS HERNANDEZ

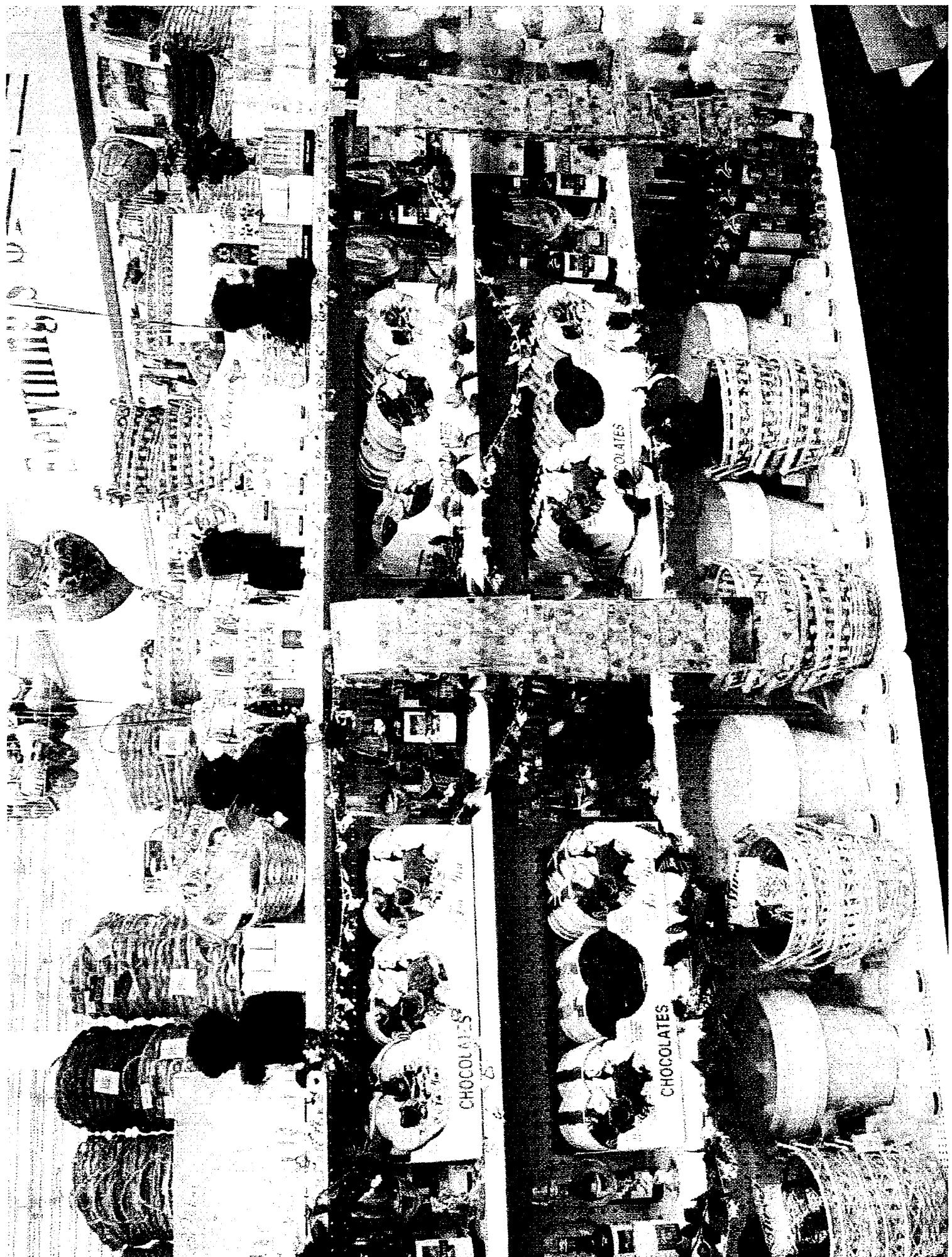
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**Exhibit 1**







**Exhibit 2**



**Exhibit 3**



**Exhibit 4**

